



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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CONTENTS

| | |
|--|----|
| HOUSE WEEK IN REVIEW | 02 |
| HOUSE COMMITTEE ACTION | 06 |
| BILLS INTRODUCED IN THE HOUSE THIS WEEK..... | 09 |

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HOUSE WEEK IN REVIEW

The House of Representatives amended **S.453**, the “**FINANCIAL IDENTITY FRAUD AND IDENTITY THEFT PROTECTION ACT,**” and returned the bill to the Senate.

Highlights of the legislation include:

- Creates the Consumer Identity Theft Protection Act;
- Requires address verification for credit card applications;
- Requires local law enforcement to report an identity theft if contacted by a suspected victim;
- Requires the State Law Enforcement Division to maintain an ID theft database;
- Provides that a victim may petition a circuit court for a judicial determination of innocence and expungement of record;
- Allows for a consumer to place a freeze on his credit information;
- Prohibits a person from posting, printing, transmitting, selling, or exchanging a social security number or a portion that consists of six digits or more unless there is written authorization, there is a legitimate business or government purpose that provides a benefit, or for other specifically permitted reasons;
- Restricts a business from printing the last five digits of a credit card number or the card expiration date on a receipt;
- Requires businesses and state agencies that own or license computerized personal identifying information to disclose a breach of the security system should one be suspected;
- Makes it unlawful for a person to obtain another’s ID by rummaging through their personal, household, or commercial garbage;
- Makes it so that a consumer reporting agency cannot charge a fee for invoking a freeze, removing a freeze, temporarily lifting a freeze, or reinstating a freeze;
- Adds that placing a freeze on a consumer’s report does not prevent someone from being able to get information concerning criminal records, fraud prevention or detection, personal loss history, or employment, tenant, or individual background screening;
- Adds that a consumer reporting agency must remove all false information from a credit report if the agency receives notice from the consumer to do so. If an agency violates this section, it is liable for three times the actual damages or \$5,000, whichever is greater. If the agency negligently violates this section, it is liable for actual damages or \$3,000 for each incident, whichever is greater;

- Adds that a person conducting business in this state may notify consumers of a security breach by email or by telephone if those are the person's primary means of communication;
- Changes the definition of "personal identifying information" to make South Carolina's definition the same as the definition used by the majority of other states;
- Removes language that required an issuer of a credit card to get parental consent prior to issuing a card to a person under the age of 21.

The House approved **S.964**, legislation pertaining to the **UNAUTHORIZED USE OF A BANK NAME**, and enrolled the bill for ratification. The legislation prohibits the use of the name or logo of a bank in any advertisements for financial products or services without the bank's written consent. A violator is subject to a fine of not less than five hundred dollars and not more than one thousand dollars for each unauthorized use of a name or logo. Under the legislation, a bank may file an action to enjoin the unauthorized use of its name or logo. A court of competent jurisdiction may grant an injunction to restrain the wrongful use and may require the defendants to pay to the bank all profits derived from, and all damages suffered by, reason of the wrongful use of the name or logo, including costs and reasonable attorney's fees.

The House concurred in Senate amendments to **S.588**, legislation establishing requirements, powers, duties, and restrictions for a **SMALL EMPLOYER HEALTH GROUP COOPERATIVE**, and enrolled the bill for ratification. The legislation enhances the authority for small employers to form cooperatives for the purpose of providing lower health insurance costs to their employees. The legislation requires the Department of Insurance and Office of Research and Statistics of the Budget and Control Board to submit to the Governor and the General Assembly by January 1, 2010, a report on the effectiveness of the health group cooperative in expanding the availability of health insurance coverage for small employers.

The House approved **S.775**, legislation creating the **MULTIPLE SCLEROSIS HEALTHCARE ACCESS STUDY COMMITTEE**, and enrolled the bill for ratification. This committee is to develop a plan for coordinated service delivery for person with multiple sclerosis. The committee is to be composed of representatives of the Department of Health and Human Services, the two medical schools, SC Hospital Association, SC Medical Association, the National Multiple Sclerosis Society, a MS nurse, and persons living with MS from different geographic regions of the state. The committee shall submit a written report of its findings and recommendations to the General Assembly before January 1, 2009, at which time the committee is abolished.

The House approved and enrolled for ratification **S.1034**, a joint resolution providing the date by which the Higher Education Task Force shall submit **RECOMMENDATIONS FOR THE HIGHER EDUCATION STATEWIDE STRATEGIC PLAN** to the General Assembly is extended until September 15, 2008.

The House amended **S.360**, relating to **RENEWABLE ENERGY RESOURCES AND NUCLEAR ENERGY UNDER THE SOUTH CAROLINA ENERGY EFFICIENCY ACT**, and returned the bill to the Senate. The legislation defines the "renewable energy

resources” that are encouraged under the provisions of the energy efficiency act as solar photovoltaic energy, solar thermal energy, wind power, hydroelectric, geothermal energy, tidal energy, recycling, hydrogen fuel derived from renewable resources, biomass energy, and landfill gas. The legislation also adds provisions to the act to ensure that any future energy strategy that promotes carbon-free, nongreenhouse gas emitting sources includes nuclear energy and renewable energy resources.

The House approved and sent to the Senate **H.4408**, a bill which **REVISES FRESHMAN REQUIREMENTS TO RECEIVE SCHOLARSHIP ENHANCEMENTS FOR MAJORING IN SCIENCE OR MATH**. Act 115 of 2007 created incentives for students to enter the science and math disciplines. However, with the implementation of the legislation, the defined combination of freshman hours in math and science to be eligible for the scholarship enhancement is problematic for students in certain structured programs. This bill revises the freshman requirements so as to allow the fourteen required credit hours to be taken in math courses or life and physical sciences courses or a combination of both.

The House amended, approved, and sent to the Senate **H.4372**, the “**SOUTH CAROLINA TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITY ACT.**” This legislation provides a mechanism for the state’s technical colleges to respond to private sector initiatives and opportunities in a timely fashion and work in tandem with local and state economic development efforts. This bill establishes an enterprise campus model that may be implemented by any of the state’s technical colleges upon approval by the State Board for Technical and Comprehensive Education.

The House amended, approved, and sent to the Senate **H.4316**. This bill establishes **ALTERNATIVE CRITERIA FOR AWARDING PALMETTO FELLOWS SCHOLARSHIPS TO STUDENTS WHO ATTEND A “MAGNET SCHOOL”** as defined in the bill. If students in the magnet school meet the Palmetto Fellows SAT (1200) and GPA (3.5) criteria but not the rank criteria their senior year (top 6%) in their magnet school, this bill allows the students to use the class rank from the high school they would have attended had there been no magnet school. The magnet school student’s eligibility application may not cause the regular high school to exceed the 6% limitation for awarding the Palmetto Fellows scholarship.

The House amended, approved, and sent to the Senate **H.3950** a bill **CREATING THE CHRONIC KIDNEY DISEASE INITIATIVE GOVERNING BOARD**. The Board is to be comprised of the DHHS director or his designee; DHEC director or his designee; 2 family practice physicians; 2 pathologists; National Kidney Foundation of SC representative; MUSC Nephrology Department of representative; South Carolina Children’s Hospital Collaborative representative, private health insurance or HMO representative; 2 nephrologists; 2 faith based community representatives; SC Diabetes Initiative representative; and Palmetto Project representative. Board members will serve two-year terms. The board shall manage funding and implementation of programs to educate the public and health care professionals about the advantages and methods of early screening, diagnosis, and treatment of chronic kidney disease and its complications based on Kidney Disease Outcomes Quality Initiative Clinical Practice Guidelines for chronic kidney disease or other medically recognized clinical practice guidelines. The Department of Health and Human Services shall provide all necessary staff, research, and meeting facilities for this governing board.

The House amended, approved, and sent to the Senate **H.3957**, a bill **REVISING THE MEMBERSHIP OF THE BOARD OF THE DIABETES INITIATIVE OF SOUTH CAROLINA**. Currently, state law provides that the President of the S.C. Affiliate of the American Diabetes Association is to serve as a member of the Board. This bill deletes that member and replaces with the Vice President of the Southeastern Division of the American Diabetes Association. This bill also deletes the Joint Legislative Committee on Health Care Planning and Oversight member, as this Committee no longer exists.

The House amended, approved, and sent to the Senate **H.3723**, relating to the creation of an **AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM FOR HIGH SCHOOLS**. Under the legislation, each school district shall develop and implement an automated external defibrillator program at every high school. It also requires all employees or volunteers who are reasonably expected to use the device to obtain appropriate training. In addition, guidelines are to be established for periodic inspections and annual maintenance of these devices.

The House approved and sent to the Senate **H.4630**, a joint resolution to create a **NEW GANG PREVENTION STUDY COMMITTEE** to continue the work of the initial Gang Prevention Study Committee to assess and combat the state's ongoing gang problem by bringing together state agencies to coordinate gang reduction plans and make further recommendations addressing gang-related activity in the state.

The House approved and sent to the Senate **H.4328**. This bill makes numerous **TECHNICAL CHANGES WITH REGARD TO THE ADMINISTRATIVE LAW COURT**. Revisions include, but are not limited to:

- Changing references to Administrative Law Court rather than administrative law judge division;
- Authorizing the Administrative Law Court to have a seal;
- Providing that the sole grounds for discipline and sanctions of administrative law judges are those contained in the Code of Judicial Conduct in Rule 502, Rule 7, of the South Carolina Appellate Court Rules; and
- Allowing an administrative law judge and the judge's spouse or guest to accept an invitation to attend a judicial-related or bar-related functions, or an activity devoted to the improvement of the law, legal system or administration of justice.

The House amended, approved, and sent to the Senate **H.3816**, a bill relating to **PROPERTY EXEMPT FROM ATTACHMENT, LEVY, AND SALE**. This bill increases the amount of debtor's interest in certain delineated properties that are exempt from attachment, levy, and sale under order of a court or as a result of a bankruptcy proceeding. The legislation also provides that the dollar amounts must be adjusted regularly to reflect the change in the Southeastern Consumer Price Index, All Consumers, as published by the Department of Labor, Bureau of Labor Statistics.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND

ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full committee did not meet this week.

JUDICIARY

The Judiciary Committee met on Tuesday, February 5, 2008.

H.4363, a bill pertaining to **MOTOR VEHICLE HEARINGS IN THE ADMINISTRATIVE LAW COURT**, received a favorable with amendment report from the full committee. Among other things, highlights of the legislation include:

- Changing references from the Division of Motor Vehicles to the Office of Motor Vehicles;
- Deleting current provisions which require the hiring of a law clerk or other assistant solely to assist the judges who hear Department of Motor Vehicle Hearing appeals;
- Outlining a process that the Department of Motor Vehicles must follow with regards to motions to reconsider certain hearings;
- Providing that administrative law judges and hearing officers are under the jurisdiction of the State Ethics Commission;
- Allowing an administrative law judge or hearing officer and the judge's or hearing officer's spouse or guest to accept an invitation to attend a judicial-related or bar-related functions, or an activity devoted to the improvement of the law, legal system or administration of justice;
- Outlining notice requirements that must be included when the Department of Motor Vehicles determines a person to be an habitual offender;
- Outlining further requirements that an habitual offender must meet in order to have his privilege to operate a motor vehicle restored; and
- Providing additional sanctions with regards to habitual offenders.

The full committee gave a favorable with amendment recommendation to **H.3059**, a bill relating to **GIVING FALSE INFORMATION OR IDENTIFICATION TO A LAW ENFORCEMENT OFFICER**. This bill provides that it is unlawful for a person to knowingly make a false complaint to a law enforcement officer concerning the alleged commission of a crime by another, or for a person to knowingly give false information to a rescue squad or fire department concerning the alleged occurrence of a health emergency or fire. The bill further provides that it is unlawful for a person to misrepresent his identification to a law enforcement officer during a traffic stop or for the purpose of avoiding criminal charges. Violations are misdemeanors. Upon conviction, a person must be fined not more than \$200 dollars or imprisoned not more than 30 days.

The Judiciary Committee adjourned debate on **H.3028**, a bill relating to the **MISREPRESENTATION OF THE IDENTITY OF FOOD OR A FOOD PRODUCT**.

H.3816 received a favorable with amendment report. Relating to **PROPERTY EXEMPT FROM ATTACHMENT, LEVY, AND SALE**, this bill increases the amount of debtor's interest in certain delineated properties that are exempt from attachment, levy, and sale under order of a court or as a result of a bankruptcy proceeding. The legislation also provides that the dollar amounts must be adjusted regularly to reflect the change in the Southeastern Consumer Price Index, All Consumers, as published by the Department of Labor, Bureau of Labor Statistics.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on February 5 and reported out two bills.

The committee gave a favorable report on **S.964**, a bill pertaining to the **UNAUTHORIZED USE OF A BANK NAME**. The legislation prohibits the use of the name or logo of a bank in any advertisements for financial products or services without the bank's written consent. A violator is subject to a fine of not less than five hundred dollars and not more than one thousand dollars for each unauthorized use of a name or logo. Under the legislation, a bank may file an action to enjoin the unauthorized use of its name or logo. A court of competent jurisdiction may grant an injunction to restrain the wrongful use and may require the defendants to pay to the bank all profits derived from, and all damages suffered by, reason of the wrongful use of the name or logo, including costs and reasonable attorney's fees.

The committee gave a favorable report on **S.598**, the **"TELEVISION PROGRAMMING PROTECTION ACT"**. This legislation requires a cable or video service provider that uses digital transmission technology to deliver its programming to block completely all video and audio on any channel that a subscriber has not purchased at no charge to the subscriber. A cable or video service provider that uses analog transmission technology to deliver its programming must notify its subscribers that it will, upon request, carry out such blocking at no charge to the subscriber. Within five days of receiving a subscriber's request, the analog service provider must block all video and audio on any channel that the subscriber has not purchased. The time frames do not apply if compliance is not possible due to circumstances beyond the service provider's control. The legislation provides that a cable or video service provider that intends to deliver channels to its subscribers on a promotional basis is required to give its subscribers advanced notice and inform them that, upon request, all video and audio on such channels can be completely blocked. Unless a subscriber makes such a request, a service provider may, on a promotional basis, deliver one or more channels not purchased by a subscriber. The legislation also establishes a protocol for rectifying instances where blocked channels are transmitted due to equipment failure.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full Ways and Means committee met on Wednesday, February 6, and gave a report of favorable with amendments on **H.4494**, a bill authorizing the **CONTINUATION OF THE RESEARCH CENTERS OF ECONOMIC EXCELLENCE** program that utilizes South Carolina Education Lottery funds for the creation of endowed professorships at the State's research universities to anchor centers conducting scientific research with business applications. The legislation allows for the continuation of the program by eliminating the \$200,000,000 monetary cap and the 2010 expiration date for funding that are currently imposed upon the Centers of Excellence Matching Endowment. The legislation revises matching fund provisions by replacing requirements for private funds with requirements for nonstate funds, thereby allowing such sources as federal funds to be counted for matching purposes. Matching fund provisions are also revised to allow for the acceptance of cash equivalent and in-kind donations from nonstate sources. The legislation provides that eligible research universities are strongly encouraged to partner with other South Carolina colleges and universities to develop proposals that will enhance the economic competitiveness of our State, and to enhance science and engineering through collaborations in related disciplines. The legislation also revises the reporting requirements for the Research Centers of Excellence Review Board so as to provide that their annual report be issued to the General Assembly as well as to the State Budget and Control Board.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

EDUCATION AND PUBLIC WORKS

S.1034 EXTENSION OF DEADLINE FOR RECOMMENDATIONS FOR THE HIGHER EDUCATION STRATEGIC PLAN Sen. Courson

This joint resolution provides that the date by which the Higher Education Task Force, established by Proviso 5A.28 in Act 117 of 2007, shall submit recommendations for the Higher Education Statewide Strategic Plan to the General Assembly is extended until September 15, 2008.

S.1050 VETERANS SPECIAL LICENSE PLATES Sen. Verdin

This bill allows the Department of Motor Vehicles to issue Operation Desert Storm-Desert Shield Veterans license plates, Operation Enduring Freedom Veterans license plates, and Operation Iraqi Freedom Veterans License plates. The bill includes eligibility requirements for obtaining these plates.

H.4629 SILVER STAR AND BRONZE STAR SPECIAL LICENSE PLATES Rep. Duncan

This bill allows the Department of Motor Vehicles to issues special Silver Star and Bronze Star license plates to recipients of these awards.

H.4650 FOOD AND BEVERAGES OFFERED IN SCHOOLS Rep. Sellers

This bill outlines fat, calorie, and sugar content standards that foods and beverages must meet in order to be sold in schools, including vending machines. This bill provides that snacks and beverages may not be sold in vending machines for student consumption in elementary schools. The bill further provides that elementary schools may offer only full meals for student consumption.

H.4662 EDUCATION ACCOUNTABILITY ACT REVISIONS Rep. Walker

This bill makes various revisions to the Education Accountability Act. Among other things, revisions include the manner in which schools are assessed and accredited as well as designated to signify varying levels of school academic performance.

JUDICIARY

S.503 WARRANTS Sen. Knotts

When a warrant is issued by a magistrate in a county other than the one where the person that is the subject of the warrant resides, this bill provides that the warrant is not required to be endorsed by a magistrate in the county where the person that is the subject of the warrant resides. This bill provides that a warrant may be served by a law enforcement officer where the person resides, or a law enforcement officer from the issuing jurisdiction while accompanied by a law enforcement officer in the jurisdiction where the warrant is being served. The bill further provides that warrants issued by municipal authorities are not required to be endorsed by a magistrate in the county where the person resides or another county where he may be located.

S.741 REVISIONS TO UNCLAIMED PROPERTY ACT Sen. Courson

This bill makes revisions to the Unclaimed Property Act. The bill reduces the dormancy period for securities from seven years to three years and outlines circumstances where the running of the three-year period ceases. The bill makes certain penalties and fines for violations permissive rather than mandatory.

S.831 ELIGIBILITY EXAMINATION FOR MAGISTRATES Sen. Campsen

This bill provides that the results of eligibility examinations for magistrates are valid for one year before and one year after the time the appointment is to be made.

**S.903 INCREASED MEMBERSHIP ON THE COMMISSION ON WOMEN
Sen. Campsen**

Currently the Commission on Women consists of seven members appointed by the Governor with the advice and consent of the Senate. Under this bill, the commission consists of 15 members; one member must be appointed from each congressional district and the remaining members from the State at large.

**S.990 TESTIMONY AT A JUDICIAL MERIT SELECTION COMMISSION
HEARING Sen. Martin**

This bill provides that any person who desires to testify at the hearing, including candidates, shall furnish a written statement of his proposed testimony to the commission no later than two weeks prior to the date and time set for the hearing unless sufficient cause is determined by the Judicial Merit Selection Commission for allowing

the submitting individual's testimony after the deadline. Current law provides that the statements must be furnished no later than 48 hours before the date and time set for the hearing.

H.4631 REGULATION OF ACTIONS OF CERTAIN LANDOWNERS

Rep. Duncan

Among other things, this bill provides that a political subdivision may not promulgate a regulation or enact an ordinance which attempts to regulate the actions of certain landowners or their designees from discharging a firearm on their property under certain circumstances.

**H.4649 PROFESSIONAL BONDSMAN'S MAINTENANCE OF SECURITY
DEPOSITS WITH THE CLERK OF COURT**

Rep. Bannister

This bill changes the amount a professional bondsman must maintain as a deposit with a clerk of court. The bill further provides that a professional bondsman presently licensed is not affected by the increased minimum deposits.

H.4656 CONTRACTOR REQUIREMENTS FOR GOVERNMENT CLIENTS

Rep. Hosey

If a general contractor or specialty contractor licensed by this State provides construction or other building services to a client which is a state or local government agency, department, or entity, this bill requires the contractor to send copies of all bills or draw requests to each agency or department occupying or to occupy the building or structure as well as to the agency or department responsible for paying the bill or draw request if different for the purpose of verifying the work performed.

H.4657 GOVERNMENT EMPLOYEES

Rep. Hosey

Upon request, this bill requires government employees to provide the public with the name and phone number of an immediate supervisor in order to verify the timeliness and quality of the service or function provided.

**H.4658 REQUIREMENTS FOR HANDLING STATE GOVERNMENT
COMPLAINTS**

Rep. Hosey

Among other things, this bill requires a state agency to communicate its resolution of a complaint received from a member of the public to its governing board and to the member of the public who made the complaint. The bill requires the agency to provide status updates of its investigation to its governing board and the member of the public who made the complaint. The bill provides for the development of certain forms a state agency must use to facilitate these reporting requirements.

**H.4659 FINES FOR WILFUL AND INTENTIONAL FAILURE TO PROPERLY
NOTIFY VICTIMS**

Rep. Hosey

Relating to causes of action against public employees or agencies for failure to properly notify victims, this bill authorizes a fine when failure to notify a victim is wilful and intentional.

**H.4660 REQUIREMENTS FOR APPLICANTS SEEKING A RETAIL PERMIT
AUTHORIZING THE SALE OF BEER OR WINE**

Rep. Hosey

This bill requires that the building or premises to be used for the sale of beer or wine be inspected and certain documents be on file with the Department of Revenue, including

the issuance of a certificate of occupancy and a fire inspection report, before the department of revenue may issue or renew a retail beer or wine permit.

LABOR, COMMERCE AND INDUSTRY

S.949 REDESIGNATION OF AUTISM HEALTH INSURANCE COVERAGE PROVISION Sen. Lourie

This bill redesignates the code provision relating to autism health insurance coverage requirements that was approved by the General Assembly last year.

S.964 UNAUTHORIZED USE OF A BANK NAME OR LOGO Sen. Thomas

The legislation prohibits the unauthorized use of a bank's name or logo. Penalties are established for violations.

H.4628 DISCRIMINATORY CONTRACTING PRACTICES PROHIBITED FOR PHARMACY BENEFITS MANAGERS Rep. M. A. Pitts

This bill prohibits a pharmacy benefits manager from discriminating when contracting with pharmacies on the basis of co-payments or days of supply. The legislation requires a contract to apply the same coinsurance, co-payment, and deductible to covered prescriptions filled by any pharmacy.

H.4661 STATEWIDE RAIL PLAN Rep. Funderburk

This joint resolution directs the Department of Commerce, Division of Public Railways, to implement and oversee a statewide rail plan, on or before March 31, 2009, in accordance with existing federal statutes, rules, and guidelines.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4648 "REDUCTION OF RACIAL AND ETHNIC HEALTH DISPARITIES ACT" Rep. Sellers

Subject to funds being appropriated for this purpose, the Department of Health and Environmental Control shall establish and administer the 'Reducing Racial and Ethnic Health Disparities: Closing the Gap' grant program. These funds will be used to fund community and neighborhood projects to improve the health outcomes of racial and ethnic populations. These funds will supplement, not supplant, existing racial and ethnic health disparities programs. This bill outlines the administering responsibilities of the Department as well as the grant process.

WAYS AND MEANS

H.4642 STATE SALES TAX EXEMPTION FOR CONSTRUCTION MATERIALS USED IN NEW OR EXPANDED CORPORATE HEADQUARTERS Rep. Herbkersman

This bill exempts from the state sales tax the gross proceeds of sales or sales price of construction materials used in construction of new or expanded corporate headquarters.

H.4664 SOUTH CAROLINA CHILDREN'S TRUST FUND REVISIONS

Rep. Harrison

This bill revises the governance of the South Carolina Children's Trust Fund by reconstituting its board of trustees as a board of directors consisting of seventeen members, including eleven at-large members appointed by the Governor from nominees made by the current board members plus one member from each of the State's congressional districts. The legislation eliminates certain qualifications for service on the board of directors and term limits on service. The legislation eliminates duplicative duties of the organization

H.4665 USE OF HOMESTEAD EXEMPTION FUND Rep. Ott

This bill requires an amount equal to twenty-five percent of any balance remaining in the Homestead Exemption Fund to be retained in the fund and carried forward as a reserve that must be used only to offset shortfalls in the fund otherwise requiring amounts due school districts to be paid from the general fund of the State. The legislation provides that the remaining balance must be credited to the Non-Federal Aid State Highway Fund and used for road and bridge maintenance. The legislation eliminates the reimbursed property tax credit as a use of these revenues.

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